

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

THOMAS H. AUSTIN

v.

CA 06-235 ML

ASHBEL T. WALL, II

AMENDED ORDER

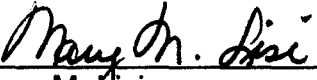
On June 14, 2006, Magistrate Judge Almond issued his Report and Recommendation wherein he recommends dismissal of the Petition. On July 5, 2006, Petitioner filed his objection to the Report and Recommendation. Although the objection was filed out of time, the Court will consider it as though it had been timely filed.

Petitioner claims that this latest filing for relief pursuant to 28 U.S. C. § 2254 is not a successive petition, as Magistrate Judge Almond found, because, he claims, that his Motion for Post Conviction Relief has been pending in the Rhode Island Superior Court since 2001. Petitioner does not address Magistrate Judge Almond's finding that Petitioner has filed four previous petitions pursuant to 28 U.S.C. § 2254, all of which have been dismissed.

This Court finds that this latest filing is indeed a successive petition. For the

reasons set forth in the Report and Recommendation, it is DISMISSED.

SO ORDERED:



Mary M. Lisi
United States District Judge
July 6, 2006